

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF ARKANSAS
CENTRAL DIVISION**

TERRY PENISTER
ADC #092828

PLAINTIFF

v.

CASE NO. 4:18-CV-00514-BSM

MARK CASHION, *et al.*

DEFENDANTS

ORDER

After *de novo* review of the record, United States Magistrate Judge Edie R. Ervin's recommended disposition [Doc. No. 77] is adopted. Terry Penister's remaining failure-to-protect claim against Darren Thomas is dismissed with prejudice. *See Angelo Iafrate Const., LLC v. Potashnick Const., Inc.*, 370 F.3d 715, 722 (8th Cir. 2004) (a judgment on the merits for an answering party should accrue to the benefit of a similarly situated defaulting party). Penister's lawsuit is dismissed with prejudice.

IT IS SO ORDERED this 1st day of March, 2022.



UNITED STATES DISTRICT JUDGE